

IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

DANIEL GONZALEZ, et al..
Plaintiffs

V.

GREGORY J. AHERN, et al..
Defendants

FILED

JUN 29 2023 PM

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Case No.
19-cv-07423-JSC
Declaration of
Keith H. Washington
aka "Malik"
PFN# UME239
Re: The "Shit Pod"
Incident @ the
Santa Rita Jail

I Keith H. Washington AKA Malik do here-by declare that I have been housed at the Santa Rita Jail since March 21st, 2022. I am currently housed on Housing Unit 2, B-Pod of the Restrictive Housing Unit. I have been subjected to an in-ordinate amount of Retaliation and Harassment by employees of the Alameda County Sheriff's Office for my engagement in First Amendment activities.

Declaration cont...

19-cv-07423-JSC

A.

The Incident

To claim retaliation and not provide the factual evidence is to practice a meaningless endeavor. I will provide this Court with some exhibits which shall show that the Alameda County Sheriff's Office uses unsanitary conditions of confinement as a means to Retaliate, Harass, Threaten, Abuse and Dissuade inmates from engaging in "Protected Conduct" i.e.. Filing Grievances, Lawsuits, Confering with Class Counsel or writting informative articles about Deaths or conditions inside the infamous Santa Rita Jail.

On January 26th, 2023 I and my Pod Partner David E. Misch were threatened by Deputy Clinton Badge# 2608.

At the time Misch and I were housed on Housing Unit 1, B-Pod. At approximately 11:49 a.m Deputy Clinton said:

"Hey Washington, if you and Misch keep filing grievances over here you are going to end up being moved to a "Shit Pod". I know you won't like that Washington." end of quote

I now direct the Court's attention to Exhibit A-1 (Grievance #230757762) which describes the day when the Classification Department at Santa Rita Jail made good on Deputy Clinton's THREAT.

The Alameda County Sheriff's Office has established a un-official policy, custom and pattern of practice where-by they co-ordinate attacks of Retaliation & Harassment against inmates who exercise their U.S. Constitutional Right to Free Speech. PLEASE READ THE GRIEVANCE.

Exhibit A-2 is the Advocacy letter sent on my behalf by Attorney Kara J. Janssen of Rosen, Bien, Galvan & Grunfeld LLP to Defendant Counsel for Alameda County Sheriff Office.

The Court should recognize that the Unsanitary Conditions at the Jail are On-going and Current as is the Culture of Abuse & Retaliation.

*I've recently been threatened with a Transfer should I continue engaging in Protected Conduct at the Santa Rita Jail.

Without the Court's intervention these acts of moral turpitude will continue.

I declare that the foregoing is true and correct executed on June 24th, 2023 at Dublin, California.

x Kerth H. Washington
Kerth H. Washington
PFN# UME239

-4- Santa Rita Jail

Exhibit A-1

19-cv-07423-JSC

Inmate Copy

Grievance #230757762

1C7

Profile Photo:
Profile Photo

Inmate Info

Name: KEITH WASHINGTON (1968-07-19)
 Booking #: UME239
 Submitted Date: 02/11/23 11:40
 Submitted from Location/Room: S01C07/1 West
 Current Location/Room: S01C07/1 West
 Facility: Santa Rita Jail Alameda, CA

Audit Photo:
Audit Photo

Form Info

Category: Others
 Form: Inmate Grievance - Single Level

Grievance Info

Status: CLOSED by Sgt. J Larosa
 Facility Deadline: 02/26/23 23:59
 Grievance Level: 1
 Inmate can reply: No

Details:

ACSO Deputies conspire to Retaliate against me for ACCESSING THE COURT, FILING GRIEVANCES AND ENGAGING IN PROTECTED CONDUCT.

Details:

Date Grievance Occurred:
 Include month, day, and year.
 February 10, 2023, Friday

Grievance Details:

Be specific. (Name, date, location, etc.)

I am writing this grievance in order to shed a discerning light on what clearly appears to be a coordinated effort by the CLASSIFICATION DEPARTMENT and Deputies on 1 Building to retaliate against me for exercising my U.S. CONSTITUTIONAL RIGHT to seek redress to my grievances against this Agency and the Santa Rita JAIL. It has already been documented that on January 26th, 2023 at approximately 11:49a.m.-11:55a.m. Deputy Clinton Badge#2608 stated: "Hey Washington, if you and Misch keep filing grievances over here you are going to end up being moved to a "Shit Pod". I know you won't like that Washington. "End of Quote. On February 10th, 2023 at approximately 3p.m. that THREAT made by Deputy Clinton became a reality. Inmate David Misch and I were moved to C-pod on 1 Building. Upon entering the Pod my senses were accosted by the strong smell of fecal matter! My cell C-7 wreaked of stale urine! I spoke to Sergeant Martinez regarding the move and he stated that " this is where we house inmates who have a history of violent assaults". I found this to be in contradiction to what Deputy Ashley Krause told me on January 13th, 2023 when she assured me that B-Pod on 1 Building was a SAFE PLACE where I would not encounter any problems. It appears that there has been some collusion between Security Personnel, the Grievance Unit and Classification in order to visit retaliation on me for filing grievances, contacting Class Counsel for BABU and contacting THE COURTS!!!

Did you speak to a housing unit staff member?:

Name of Staff Member

Sergeant Martinez Was the Supervisor on duty during the move and I spoke with him. I also spoke with Lieutenant Davis at 8:30p.m

Is this ADA related?:

Yes

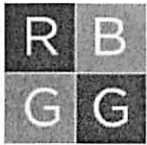
Is this PREA related?:

No

By submitting this form I am consenting to a search of my medical, dental, or mental health records for the purpose of this investigation only. This acts as a waiver to my HIPAA rights. Do you agree to these terms?:

Yes

DATE/TIME	USER	ACTION	DETAILS
02/14/23 11:13	Sgt. J Larosa	Staff Response	Grievance #23-0349 was previously investigated and Affirmed. The decision to move you from B-pod to C-pod was made entirely by Classification without any collusion with housing unit staff or intent of retaliation. The simple reason was Classification needed to make space in B-pod for IOL inmates. B-Pod is used for inmates on IOL (which you were not) and there was an increase in the number of IOL inmates needing to be celled in B-pod.
02/14/23 11:13	Sgt. J Larosa	Changed Status	From 'Open' to 'Closed'
02/11/23 11:40	KEITH WASHINGTON	Submitted New	ACSO Deputies conspire to Retaliate against me for ACCESSING THE COURT, FILING GRIEVANCES AND ENGAGING IN PROTECTED CONDUCT.



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March 16, 2023

VIA ELECTRONIC MAIL ONLY

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Re: **Individual Advocacy re: Keith Washington (UME239)**
Babu et al. v. County of Alameda et al.,
N.D. Cal. No. 5:18-cv-07677-NC
Our File No. 1378-03

Dear Counsel:

We write regarding class member Keith Washington (UME239).

Mr. Washington recently contacted us and said that on January 26, 2023, at 11:49am, Deputy Clinton (Badge #2608) retaliated against Mr. Washington by informing him that he would be moved to a “shit pod” if he continued to file grievances and communicate with our firm. On February 1st, 2023, at approximately 3pm, Mr. Washington was moved to C-Pod in Housing Unit 1, which he reports smelled of fecal matter and urine. When Mr. Washington spoke to Sergeant Martinez about this move, he reported that staff members have typically placed incarcerated people with a history of violent assaults in C-Pod, as a form of punishment for their actions. Mr. Washington filed a grievance (Grievance #230757762) regarding this staff misconduct, and Mr. Washington reports that this grievance led Deputy Clinton to admit that he intentionally placed him in this housing unit as a form of retaliation. Sergeant Martinez attempted to resolve this issue by moving Mr. Washington to E-Pod in Housing Unit 1, which Mr. Washington reports to be much cleaner than C-Pod. This resolution, however, did not address Deputy Clinton’s misconduct and ongoing retaliation against Mr. Washington. As you know, the Consent Decree requires that the Jail considers “the efficacy of disciplinary measures versus alternative measures that are designed to effectuate change

March 16, 2023

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in behavior through clinical intervention, and the impact of disciplinary measures on the health and well-being of [incarcerated people] with disabilities.” See Section at III. E. 3 at page 27. **Class Counsel requests that Defendants investigate the reported retaliatory actions by Deputy Clinton.**

Moreover, Mr. Washington reports that on February 24, 2023, between 11am and 12pm, Deputy Clinton told Mr. Washington that he would only give Mr. Washington two hours of pod time per day and that the amount of pod time Mr. Washington can receive is up to his discretion. Mr. Washington filed a grievance (Grievance #233439392) regarding this issue, and the Jail cited Detention and Corrections Policy and Procedure ~~9.10 to justify the amount of pod time given to Mr. Washington.~~ This policy, however, is outdated, and goes against the Consent Decree. As of June 7, 2022, the Consent Decree requires that individuals in General Population housed in celled settings “shall be offered at least **twenty-eight (28)** hours per week of out-of-cell time.” *Id.* at 19:25-20:1. Individuals placed in Restrictive Housing, Recreate Alone Status (“Step 1”) must be offered at least **ten (10)** hours per week of out-of-cell time, and individuals placed in Restrictive Housing, Recreate Together Status (“Step 2”) shall be offered at least **seventeen (17)** hours per week of out of cell time. *See* Section at III. D. 1 at page 20. **Please ensure that the Jail abides by the out-of-cell time requirements listed in the Consent Decree and ensures staff members are aware of, and held accountable to, these requirements.**

Relatedly, the Consent Decree states that incarcerated people may be placed in Restrictive Housing only if they meet one of the following criteria, “(1) recent assaultive behavior resulting in serious injury; (2) recent assaultive behavior involving use of a weapon; (3) repeated patterns of assaultive behavior (such as gassing); (4) where they pose a high escape risk; or (5) repeatedly threatening to assault other incarcerated persons or Staff.” *See* Section III.C.vi. Our understanding is that Mr. Washington does not fall into any of these criteria. Instead, Mr. Washington requires Restrictive Housing because the Jail is unable to house him safely in any other location. Please advise as to Mr. **Washington’s classification status and whether he is placed in the Restrictive Housing program or being held in these units for other reasons, in which Mr. Washington should be offered at least twenty-eight (28) hours per week of out-of-cell time.**

Thank you for your attention to this important matter.

March 16, 2023
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Sincerely,

ROSEN BIEN
GALVAN & GRUNFELD LLP

/s/ Kara J. Janssen

By: Kara J. Janssen
Senior Counsel

KJJ:mr

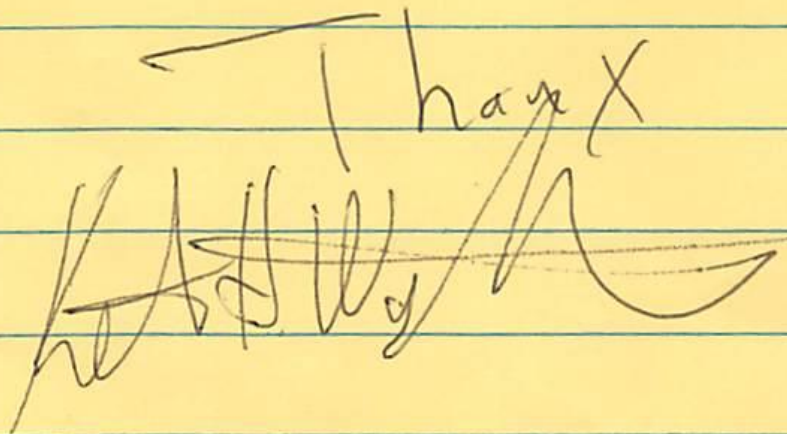
To: Clerk of Court

6-25-23

From: Keith H. Washington
PFN# UME239
Santa Rita Jail

Re: Gonzales Case
3:19-cv-07423

Dear Clerk, please
submit & File the
enclosed documents
with the Gonzales case.

Thank


Keith H. Washington
PFN# UME239
Santa Rita Jail
5325 Broder Blvd.
Dublin, CA 94568

OAKLAND CA 945
27 JUN 2023 PM 3 L



Ronald V. Dellums Federal Building
United States Courthouse
Attn: Clerk of Court
1301 Clay Street, Suite: 4005
Oakland, CA 94612

94612-521299

SANTA RITA JAIL
5325 BRODER BLVD.
DUBLIN, CA 94568



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